



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

MAR 17 2011

Col. Alfred A. Pantano, Jr.
District Commander
U.S. Army Corps of Engineers
Jacksonville District
01 San Marco Boulevard
Jacksonville, FL 32207-0019

Dear Col. Pantano:

This is in regard to Permit Application No. SAJ-2007-06364 (IP-EWG) by Cinque Dames for the proposed construction of the Amalago Bay Development in St. Croix, U.S. Virgin Islands. The proposed project entails the relocation of a road, the construction of a 70-slip inland marina, the dredging of the marina entrance channel and a flushing channel, a beach creation/replenishment project, and the construction of four coastal jetties. In the public notice for the project, the applicant states that the overall purpose for this work is to construct a world class waterfront destination casino resort with a residential golf component, a marina and associated amenities.

The U. S. Environmental Protection Agency (EPA) has reviewed the available information on the proposed project and determined that the activities described in the public notice do not comply with the Clean Water Act Section 404 (b)(1) Guidelines. Such guidelines state that "no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic environment." In the case of non-water dependent activities, such as the proposed development, such alternatives "are presumed to be available, unless clearly demonstrated otherwise".

The upland area to be impacted by the proposed development was used for agricultural practices in the past, as highlighted on the Public Notice. We have also considered the fact that a previous permit application for this project was presented in 2007 and that based on feedback from the Corps' resource agencies, the applicant withdrew the original application and made substantive modifications to reduce the environmental impacts of the project. However, EPA remains concerned about potentially significant impacts to aquatic resources of national importance.

Specifically, EPA is concerned regarding the proposed placement of a significant amount of sand into navigable waters of the U.S. in order to create a bathing beach and an inland marina for the project. According to the public notice, up to 33,100 cubic yards of sand would be required. While we understand that some of the material would be derived from the dredging of the marina entrance and flushing channels, EPA is concerned about the source of sand required to complete the project. Sand deposits in the Caribbean have been mined for use as concrete aggregate, fill and for developments such as this one. These practices have resulted in coastal erosion, reduced coastal protection from storm events and impacts to benthic and beach fauna and flora. Since the amount of sand required to complete the proposed project exceeds the volume expected to be recovered during the dredging of the canals, EPA would appreciate evaluating additional information from the applicant regarding the additional sources of sand in order to evaluate whether this element of the project might result in secondary impacts to other jurisdictional areas.

In addition, EPA is concerned about the potential effects of the project on coral hard bottoms and other nearshore impacts. While we recognize that the applicant has significantly revised the amount of sand to be placed below the mean water line, as well as the size and orientation of the proposed jetties, approximately 2.75 acres of impacts would still result from the current proposal. EPA considers the corals and other hard bottom benthic communities within the project area as aquatic resources of national importance as described in the revised Clean Water Act §404(q) Memorandum of Agreements signed by our two agencies, since corals are among the most diverse and vulnerable aquatic habitats found in our nation's waters. The discharge of sand in the coastal portion of the project may have unacceptable impacts on these resources. The applicant has offered to mitigate for such impacts by creating 4.1 acres of artificial boulder reefs near the impact area. We believe that additional information regarding the coral transplant project and the establishment of the artificial reef is needed in order to fully evaluate their feasibility and appropriateness. In addition, parameters to determine the eventual success of these projects should be established.

Furthermore, EPA is concerned regarding the additional impacts that the project may have on the area's aquatic resources. The project includes significant elements in the adjacent uplands, including structures, recreational facilities and a golf course. Due to the nature of the terrain, EPA believes that the described extensive inland drainage network may include watercourses considered to be waters of the United States. The presence of such resources, which may be eliminated or otherwise impacted by the proposed project, should be evaluated. In addition, EPA believes that the runoff from the construction phase of the project may result in additional adverse impacts to aquatic resources which should be controlled through the use of best management practices and the appropriate Territorial Pollution Discharge Elimination System (TPDES) permit. If the project is eventually completed, it must also include measures to permanently manage stormwater runoff that may also negatively impact aquatic resources. In the case of the golf course, which may require the use of pesticides and/or fertilizers in its regular maintenance, such measures to control runoff are particularly important in order to avoid undesirable impacts to water resources. Therefore, EPA believes that the

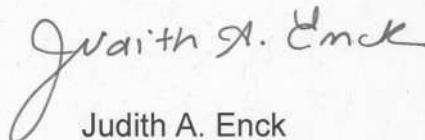
applicant should submit a draft of the proposed runoff control measures during the construction phase and at least a conceptual plan for the operational/maintenance phase in order to minimize secondary impacts from this aspect of the project.

Due to the scope of this project and the various potential impacts from dredging, excavation, construction, and other aspects of development, EPA feels that an Environmental Impact Statement would be appropriate for this project. EPA would be happy to discuss this matter further. Additionally, EPA administers a number of programs to advance sustainable development in the hospitality sector. EPA encourages the Corps to address this issue with the applicant and will also be reaching out to the developer in the future.

In summary, EPA believes that the proposed dredging and discharge of sand at Gallows Bay, St. Croix during the proposed construction of the Amalago Bay Resort could have a substantial and unacceptable impact on aquatic resources of national importance. This opinion resulted from the consideration of the values and functions of the special aquatic sites within the project area. In addition, in our opinion, the applicant has failed to comply with the Clean Water Act Section 404(b)(1) guidelines due to the lack of a suitable mitigation plan to compensate for any unavoidable adverse impacts to the greatest extent possible. We therefore recommend the denial of a DA permit for this project until the applicant has satisfied our requirements. This letter is intended to satisfy the requirements of both Part IV 3(a) and 3(b) of the Section 404(q) MOA.

If you have any questions regarding this matter, please contact me at (212) 637-5000, or have your staff contact Mr. Carl-Axel P. Soderberg, Director of EPA's Caribbean Environmental Protection Division, at (787) 977-5870.

Sincerely,



Judith A. Enck
Regional Administrator

cc: USFWS, Boquerón, PR
NMFS, St. Petersburg, FL
PRDNR, Puerta de Tierra, PR
PRPB, San Juan, PR